

### Remarks

Reconsideration of the captioned application as amended herewith and in view of the following Remarks and Arguments is respectfully requested.

#### I. Status of the Claims

Claims 1 - 3, 5, 6, and 11 - 15 are pending in the application. Claims 1 and 11 have been amended to delete the semicolon as suggested by the Examiner. Claim 1 has also been amended to further define that the composition is topically applied to sun burned skin, wind burned skin, or skin that is red or inflamed due to (i) contact with irritating soaps or cleansers; (ii) acne lesions, or (iii) allergic skin reactions. Claims 9 and 10 have been canceled. Claim 5 has been amended to depend from claim 1. Support for the amendment to claim 1 can be found in original claims 9 and 10. Accordingly, no new matter has been introduced by this amendment.

#### II. Claim Objections

The Examiner has objected to claims 1 and 11 because of the use of semicolons. Applicants have deleted the semicolons. Accordingly, Applicants respectfully request withdrawal of this rejection.

#### III. The Rejection Over Tokuyama

The Examiner has rejected claims 1-3, 6, and 9-14 under 35 U.S.C. §102 (b) as being anticipated by EP 1090630 A1 ("Tokuyama"). Applicants respectfully traverse this rejection.

Claim 9 has been canceled. As amended claims 1 -3 and 6 relate to a method for ameliorating redness or inflammation of mammalian skin. The method

comprises the step of topically applying a composition to sun burned skin, wind burned skin, or skin that is red or inflamed due to (i) contact with irritating soaps or cleansers; (ii) acne lesions, or (iii) allergic skin reactions, where the composition comprises:

- (a) from about 1.0 to about 10% by weight, based on the total composition, of a redness or inflammation reducing agent selected from an alkanolamine, tyrosine; or a mixture thereof; and
- (b) a cosmetically acceptable carrier.

In contrast, Tokuyama relates to skin conditioning compositions comprising a compound, including among others, L-arginine and ethanolamine, as a skin moisture retention agent. There is no teaching or suggestion that the skin conditioning compositions could be useful for ameliorating redness or inflammation of mammalian skin, specifically to treat sun burned skin, wind burned skin, or skin that is red or inflamed due to (i) contact with irritating soaps or cleansers; (ii) acne lesions, or (iii) allergic skin reactions. Accordingly, Tokuyama cannot anticipate Applicants claimed invention of claims 1-3 and 6.

With respect to claims 11-14, Applicants note that there is nothing in the teachings of Tokuyama that would provide one of ordinary skill in the art with the motivation to use the skin conditioning compositions taught by Tokuyama in a method for ameliorating the irritating effects of a skin irritating composition. The Examiner argues that Tokuyama teaches the inclusion of "paraben and ethanol, potentially skin-irritating materials." However, there is nothing in the teaching of Tokuyama that an alkanolamine or tyrosine could be used in a method for ameliorating the irritating effects of a skin irritating composition. Indeed, Tokuyama does not even discuss the effects of an irritating composition, much less, how to ameliorate it. As shown by Example 8 of the present application, Applicants have surprisingly discovered that an alkanolamine or tyrosine, in combination or alone,

effectively reduces the irritation of irritating skin compositions. Such results are neither taught or suggested by Tokuyama.

IV. The Rejection over U.S. Patent No. 6,365,623

The Examiner has rejected claims 1-3 and 5 under 35 U.S.C. §102 (a) and (e) as allegedly anticipated by the U.S. Patent No.6,365,623 ("the '623 patent"). Applicants respectfully traverse this rejection. Applicants note that claims 9 and 10 were not rejected in view of the '623 patent. As applicants have incorporated limitations of claims 9 and 10 into claim 1, the rejection over the '623 patent should be withdrawn.

V. The Rejection over U.S. Patent No. 6,319,942

The Examiner has rejected claims 1-3 and 5 as allegedly anticipated by U.S. Patent No. 6,319,942 ("the '942 patent"). Applicants respectfully traverse this rejection. Applicants note that claims 9 and 10 were not rejected in view of the '942 patent. As applicants have incorporated limitations of claims 9 and 10 into claim 1, the rejection over the '942 patent should be withdrawn.

VI. The Rejection over U.S. Patent No. 5,972,993

The Examiner has rejected claims 1, 2, and 10 as anticipated by U.S. Patent No. 5,972,993 ("the '993 patent"). The '993 patent discloses compositions for treating skin conditions, such as rosacea and sensitive skin that manifest as a tendency towards flushing and blushing. The composition comprises at least one antioxidant. Applicants respectfully traverse this rejection.

First, there is no teaching or suggestion in the '993 patent of a method for treating sun burned skin, wind burned skin, or skin that is red or inflamed due to (i)

contact with irritating soaps or cleansers; (ii) acne lesions, or (iii) allergic skin reactions using an alkanolamine and/or tyrosine. The only mention of an alkanolamine in the '993 patent is as an adjunct, among many others in a cream. There is no teaching or suggestion of the benefits of alkanolamine and/or tyrosine to treat red or inflamed skin.

The '993 patent specifically teaches that antioxidants function to treat rosacea (column 4, lines 35 – 38). Suitable antioxidants are listed in column 4, lines 41 – 65. Triethanolamine is not an antioxidant, nor is it listed in the materials that are useful to treat rosacea, much less for the specific treatment of sun burned skin, wind burned skin, or skin that is red or inflamed due to (i) contact with irritating soaps or cleansers; (ii) acne lesions, or (iii) allergic skin reactions.

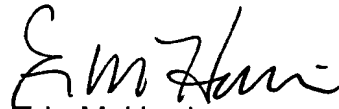
Finally, the Examiner points to column 10, lines 33-66 as disclosing a composition useful for treating rosacea comprising 0.5% by weight of triethanolamine. The present claims recite from about 1.0 to about 10% by weight, based on the total composition, of a redness or inflammation reducing agent selected from an alkanolamine, tyrosine or a mixture thereof. As the only mention of an alkanolamine is triethanolamine at 0.5%, the '993 patent cannot anticipate claims 1 and 2. Accordingly, Applicants respectfully request withdrawal of this rejection.

## VII. Conclusion

Applicants believe that the foregoing presents a full and complete response to the present Office Action. Applicants believe that this Response places the case in condition for allowance. Accordingly, an early and favorable response is earnestly solicited. If the Examiner feels that a discussion with Applicants' representative would be helpful in resolving the outstanding issues, the Examiner is invited to contact Applicants' representative at the number provided below.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 10-0750/JBP-525/EMH. If a fee is required for an Extension of time 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Erin M. Harriman".

Erin M. Harriman  
Reg. No. 40,410  
Attorney for Applicants

Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003  
(732) 524-3619  
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